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BEFORE THE ARIZONA CORPORATION

COMMISSIONERS

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Arizona Corporation Commission

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AZ CORP COMMISSION
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QWEST CORPORATION,
COMPLAINANT,

DOCKET NO. T-01051B-09-0307
DOCKET NO. T-03267A-09-0307

VS.

MCLEODUSA TELECOMMUNICATIONS
SERVICES, INC., dba PAETEC BUSINESS
SERVICES,

RESPONDENT.

PROCEDURAL ORDER

BY THE COMMISSION:

On June 9, 2009, Qwest Corporation ("Qwest") filed with the Arizona Corporation Commission ("Commission") a Formal Complaint against McLeodUSA Telecommunications Services, Inc. ("McLeod"), asserting that McLeod's Wholesale Service Order Charge violated state and federal law and public policy and should be stricken from McLeod's Tariff as discriminatory, anticompetitive, and unjust or unreasonable ("Complaint"). Qwest asserted that McLeod assessed the charge of \$24.24 whenever an Arizona end-user telecommunications customer switched its intrastate telecommunications service provider from McLeod to Qwest and further asserted that McLeod assessed the charge only against Qwest.

On July 1, 2009, McLeod filed an Answer to Qwest's Complaint, denying many of Qwest's factual assertions, denying that Qwest was entitled to the relief requested in its Complaint, and asserting that the Commission should deny Qwest's Complaint.

On July 6, 2009, a Procedural Order was issued that, among other things, required the Commission's Utilities Division ("Staff") to appear and participate at the procedural conference scheduled therein and lend its expertise in this matter, as it appeared to raise policy issues.

On August 7, 2009, a procedural conference was held at the Commission's offices in Phoenix, Arizona. Qwest, McLeod, and Staff appeared through counsel. During the procedural conference,

1 Qwest and McLeod requested that this matter be resolved through the filing of cross Motions for
2 Summary Determination. Qwest and McLeod asserted that parallel cases were pending in
3 Washington, Iowa, and Utah; that the Washington Commission had agreed to resolve the case there
4 through such Motions; and that it would be preferable not to expend the resources for a hearing. Staff
5 did not object to the proposed process, but expressed a desire for notice to be filed in this docket if a
6 hearing were ordered in a parallel case. Qwest agreed to make such a filing.

7 On August 10, 2009, a Procedural Order was issued establishing a procedural schedule in this
8 matter and establishing requirements for the format and substance of the Qwest and McLeod filings.
9 The first filing required under the Procedural Order was a joint Stipulation of Material Facts, to be
10 made by November 18, 2009.

11 On November 10, 2009, Qwest and McLeod filed a Joint Motion for Modification of
12 Procedural Schedule requesting that the procedural schedule in this matter be modified to require
13 filing of the Stipulation by January 15, 2010, with the other filings to follow at the same intervals as
14 previously established. Qwest and McLeod asserted that the modification of the schedule would
15 allow for the parallel Washington Commission proceeding to be fully submitted. Qwest and McLeod
16 stated that they had consulted with counsel for Staff, who had not objected to their request.

17 On November 12, 2009, a Procedural Order was issued modifying the procedural schedule for
18 this matter to require filing of the joint Stipulation by January 15, 2010, and adjust the other filing
19 requirements accordingly. The Procedural Order retained the previously established requirements for
20 the format and substance of Qwest's and McLeod's filings.

21 On January 15, 2010, Qwest filed a Motion for Extension of Time to File Stipulation of
22 Material Facts, on behalf of itself and McLeod, requesting that the deadline for filing the Stipulation
23 be extended to January 25, 2010. Qwest asserted that the parties needed additional time due to
24 unanticipated difficulty in reaching agreement as well as other commitments of counsel. No assertion
25 was made regarding Staff's position on the Motion. Nor was any update provided regarding the
26 progress of the parallel proceedings in other jurisdictions.

27 On January 20, 2010, a Procedural Order was issued extending to February 1, 2010, the filing
28 deadline for the joint Stipulation of Material Facts and scheduling a procedural conference for

1 February 17, 2010, to discuss the status of the parallel proceedings in other jurisdictions and how best
2 to proceed in this matter.

3 On February 1, 2010, a joint Stipulation of Material Facts was filed by the parties.

4 On February 17, 2010, a procedural conference was held at which Qwest, McLeod, and Staff
5 appeared through counsel. The parties revealed that a decision was expected imminently in
6 Washington, that the schedule in Iowa was suspended, that there was not yet a procedural schedule in
7 New Mexico, and that replies to Cross Motions for Summary Determination were the next step in
8 Utah. The parties agreed that the procedural schedule in this matter should be suspended, pending
9 receipt of a Washington order, which Qwest and McLeod hoped would result in their resolving their
10 dispute.

11 On August 18, 2010, Qwest filed notice of the decision issued in the parallel proceeding
12 before the Public Service Commission of Utah ("Utah PSC"), which was favorable to Qwest. Qwest
13 subsequently filed a copy of the Utah PSC decision on September 13, 2010.

14 On January 12, 2011, a Procedural Order was issued scheduling a procedural conference for
15 February 10, 2011, at which the parties were to report on the status of the parallel proceedings in
16 other states and on any progress toward settlement of their dispute.

17 On February 10, 2011, a procedural conference was held as scheduled at the Commission's
18 offices in Phoenix, Arizona. Qwest, McLeod, and Staff appeared through counsel. Qwest reported
19 that a decision favorable to McLeod has been issued in Washington, and McLeod was directed to
20 docket a copy of that decision. Qwest and McLeod also reported that no action has been taken in the
21 other states' parallel proceedings, although the Utah PSC had granted a request for reconsideration of
22 its decision. Qwest and McLeod further reported that they were in negotiations for a new
23 interconnection agreement ("ICA") and, in that context, were actively negotiating toward settlement
24 of their dispute in this matter, although the resolution of the dispute could take many months, as ICA
25 negotiations tend to be quite lengthy. It was determined that joint updates regarding the parties'
26 progress in negotiations would be filed in this docket every 90 days, and the parties were advised that
27 such updates should include notice of any breakdown in negotiations that may occur and of any
28 action taken in other states regarding the parallel proceedings in those states.

1 On February 10, 2011, McLeod filed a copy of the decision issued by the Washington State
2 Utilities and Transportation Commission.

3 On February 11, 2011, a Procedural Order was issued memorializing the requirement for joint
4 updates to be filed every 90 days.

5 On March 17, 2011, Qwest filed a copy of the Utah PSC Order on Reconsideration, which
6 was favorable to Qwest.

7 In compliance with the February 11, 2011, Procedural Order, the parties filed Joint Status
8 Reports on May 11, 2011; August 9, 2011; November 8, 2011; and February 22, 2012.

9 On September 25, 2012, Qwest and McLeod¹ filed a Joint Motion to Dismiss, requesting that
10 the Complaint be dismissed and that this docket be closed because Qwest and McLeod have resolved
11 the issues of the Complaint to their mutual satisfaction through an Amendment to their ICA
12 (eliminating the WSOC) and settlement of claims regarding disputed charges, past due amounts, and
13 back balances related to the WSOC. Qwest and McLeod further stated that Staff had been fully
14 apprised of the settlement terms and conditions.

15 Staff has not made a filing objecting to the Joint Motion to Dismiss.

16 Because Qwest and McLeod have resolved their dispute to their mutual satisfaction, and Staff
17 has raised no objection to the dismissal of the Complaint and closure of this docket, it is now
18 reasonable and appropriate to grant the Joint Motion to Dismiss and close this docket.

19 IT IS THEREFORE ORDERED that the **Complaint is hereby dismissed.**

20 IT IS FURTHER ORDERED that **Docket Nos. T-01051B-09-0307 et al. are hereby closed.**

21 DATED this 10th day of October, 2012.

22
23 
24 SARAH N. HARPRING
25 ADMINISTRATIVE LAW JUDGE
26
27

28 ¹ Qwest is now known as CenturyLink-QC, and McLeod is now known as Windstream Communications.

1 Copies of the foregoing mailed/delivered
2 this 10th day of October, 2012, to:

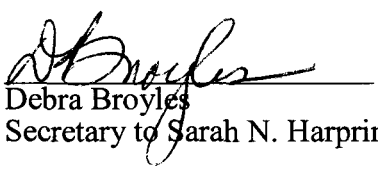
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By: 
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Secretary to Sarah N. Harpring